



Voluntary Party Remediation and Exemption from Liability

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Fact Sheet #2

June 2004

This replaces three previous versions of Fact Sheet 2, issued in June 1995, March 1999 and July 2001.

What is the Voluntary Party Liability Exemption?

Throughout the United States, there is a growing interest in reusing and redeveloping former commercial and industrial properties. These properties often have environmental contamination resulting from historic uses. This fact sheet explains how people can conduct voluntary environmental cleanups in Wisconsin and obtain exemptions from liability.

In 1994 the Wisconsin Legislature created the Voluntary Party Liability Exemption. It did so because many Wisconsin businesses, lenders, developers or individuals were hesitant to get involved with environmentally "suspect" properties, due to the potential for long-term environmental liability placed on owners of contaminated property. Many prime development properties were abandoned by their owners or remained underused due to concerns about long-term environmental liability. Also, many of these properties are a blight in their communities and pose health threats to the people who live near the properties.

The Voluntary Party Liability Exemption (VPLE) is a process by which parties can voluntarily conduct an environmental investigation and cleanup of a property and then receive limits on their future liability. The VPLE is found in section 292.15 of the Wisconsin Statutes and is implemented by

the Department of Natural Resources (DNR).

The VPLE process can help to facilitate real estate transactions involving contaminated property. Once the DNR has approved the completion of the cleanup activities at a property, prospective purchasers can feel comfortable knowing that the entire property has been investigated and cleaned up to the satisfaction of the DNR.

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Wisconsin Department of Natural Resources
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Situations when the VPLE could help:

“Our company is considering purchasing a former industrial property to build our new office and we are willing to conduct an environmental cleanup. How do I know for sure when the property has met all of the cleanup requirements? What assurances will I have that when I complete my cleanup the DNR will not come back at a later date and make our company do additional work?”



“I am selling my property where I used to operate a gas station but the buyer’s bank will not allow the buyer to purchase the property unless the buyer is protected from environmental liability. How can I get such an exemption?”

What am I exempt from if I receive the Voluntary Party Liability Exemption?

If you successfully complete an investigation and cleanup of a property that is approved by the DNR, you will receive a number of future protections from liability under Wisconsin environmental laws. After the DNR determines that the investigation and cleanup of the property and any hazardous substances that have migrated off the property is complete, you will receive a Certificate of Completion. The Certificate of Completion exempts the voluntary party from future liability under most provisions of the Hazardous Substance Discharge Law, as well as certain hazardous and solid waste laws. The certificate assures that no additional environmental work will be required of the party with respect to hazardous substance releases that occurred prior to the approval of the Site Investigation, even if in the future:

- (1) environmental standards change;
- (2) cleanup action fails; or
- (3) the hazardous substance contamination that was the subject of the cleanup is discovered to be more extensive than originally thought.

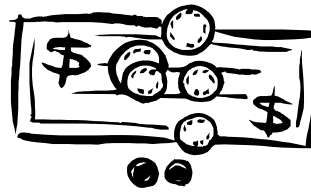
The Certificate of Completion also applies to future owners of the property as a successor or assignee of the voluntary party. In order to keep the liability exemption, however, the future owner must continue any required maintenance and monitoring of the property.

If any discharges of hazardous substances occur on the property *after* the site investigation is approved by the DNR, those discharges would not be covered by the exemption. Any person who causes, controls or possesses future discharges would be responsible for taking appropriate actions under the Hazardous Substance Discharge Law and any other applicable law. If there are releases after the site investigation, the voluntary party may still be able to qualify for the exemption if the voluntary party updates the site investigation and remediates those releases to the satisfaction of the DNR.

Who is eligible to participate?

This process is an elective, rather than a mandatory, environmental cleanup process. Any interested businesses, individuals or local governments can participate in the VPLE process. When this program was first created, it was open only to individuals who purchased a property, but recent legislation expanded the eligibility for the VPLE to any person who

submits an application and pays the required fees. Any interested person, even the party who caused the contamination, is eligible to participate in the program. Voluntary parties must submit an application and pay the applicable fees (see below) to participate in the process.



oversight costs are less than the advance deposit, the

voluntary party will receive a refund from the DNR. If the advance deposit is depleted and additional cleanup work needs DNR review, the DNR will bill the voluntary party on a quarterly basis for the DNR oversight costs. Oversight costs are charged at an hourly rate.

What is the Hazardous Substance Discharge Law?

The Hazardous Substance Discharge Law, also known as the Spill Law, s. 292.11, Wis. Stats., requires that persons who "possess", "cause", or "control" a hazardous substance discharge take actions necessary to restore the environment to the extent practicable and minimize harmful effects from the discharge. Before the voluntary party liability exemption was created, people were reluctant to purchase contaminated property. Potential buyers feared they would be held financially responsible because they would possess or control any discharge on the property even if they did not cause the contamination.

The advance deposit does not always cover the total DNR oversight cost. While some voluntary parties have received refunds after their Certificate of Completion is issued, the amount of oversight costs can be significantly higher than the advance deposit. The amount of oversight costs typically depends on the complexity of the site and the level of technical review that is necessary.

Are there fees to participate in the VPLE program?

Yes, there are fees. In addition to all investigation and cleanup expenses, voluntary parties who want to receive the liability exemption are required to pay fees for DNR oversight costs, as required in ch. NR 750, Wis. Admin. Code. To begin the VPLE process, voluntary parties must submit a nonrefundable \$250 application fee per legally described property. In addition, an advance deposit is required before the DNR can begin providing technical oversight.

The advance deposit for Voluntary Party Liability Exemption properties is \$1,000 if the property is one acre or less and \$3,000 if the property is larger than one acre. If the DNR

This document may contain some information about certain state statutes and rules but does not necessarily include all of the details found in the statutes/rules. Readers should consult the actual language of the statutes/rules to answer specific questions.

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This publication is available in alternative format upon request. Please call 608-267-3543 for more information.

How do I participate in this process?

In order to participate in the Voluntary Party Liability Exemption process, you should take the following steps:

- (1) Send a completed application form (**Form 4400-178**) to the Land Recycling Team contact in the local DNR regional office where the property is located (please see map on page 6). To receive an application form, call the local Land Recycling contact. Application forms can also be obtained on the Remediation and Redevelopment web site: http://dnr.wi.gov/org/aw/rr/archives/pub_index.html#forms. The required \$250 application fee for each legally described property, payable to the “Wisconsin Department of Natural Resources,” should be submitted with your application. This application fee covers DNR administrative processing and is non-refundable.
- (2) Submit to DNR an advance deposit of \$1,000 for properties smaller than 1 acre, or \$3,000 for properties 1 acre or larger. The advance deposit must be received within 30 days of receiving a letter from the DNR acknowledging receipt of the application form. *While they can be sent together with the application, please include separate checks for the advance deposit and the application fee.*
- (3) Submit to DNR a Phase I Environmental Assessment report and a Phase II Environmental Assessment report. If you own the property or caused the discharge, immediately notify the DNR of any hazardous substance discharges, in accordance with s. 292.11(2), Wis. Stats., and ch. NR 706, if you have not done so already.
- (4) After the DNR approves the Phase I and Phase II assessment, complete the environmental investigation of all areas of concern on the property, in accordance with ch. NR 716. The investigation should address any hazardous substance discharge on or migrating from the property.
- (5) Submit a remedial action options report that is prepared in accordance with ch. NR 722.
- (6) Upon receiving DNR approval of the environmental investigation and remedial action options report, conduct a cleanup of the property and any contamination which migrated off the property.
- (7) Upon completing the cleanup and having met all the requirements for case closure in ch. NR 726 or ch. NR 746, request a Certificate of Completion in accordance with the appropriate paragraph under s. 292.15(2), Wis. Stats. All applicable fees must be paid before the Certificate of Completion can be issued.
- (8) If natural attenuation is part of the cleanup and you want the Certificate of Completion before the groundwater has met enforcement standards, you should also submit the insurance fee and application as required by ch. NR 754 in order to obtain the Certificate of Completion (see Question #29 on page 12).
- (9) The DNR will issue a Certificate of Completion if all the appropriate requirements have been met.
- (10) If necessary, maintain and monitor the property as required by any deed restrictions or requirements agreed to as conditions of the Certificate of Completion
- (11) If the cost to provide oversight is less than the advance deposit, you will receive a refund from the DNR.



Differences Between The VPLE And The Traditional Cleanup Process

	Traditional Spill Cleanup Program (s. 292.11, Wis. Stats.)	Voluntary Party Liability Exemption Process (s. 292.15, Wis. Stats.)
Participation	<ul style="list-style-type: none"> Required by law Receive "responsible party" letter from DNR requiring environmental investigation and response action 	<ul style="list-style-type: none"> Elective Application required
DNR Involvement and Fees	<ul style="list-style-type: none"> When requested by the responsible party, DNR may provide written review as well as technical and redevelopment assistance for a fee, per ch. NR 749 DNR will approve case closure 	<ul style="list-style-type: none"> DNR review and approval of Phase I, Phase II, Site Investigation and case closure required by law DNR charges fees for its oversight costs: \$250 application fee and oversight fees billed hourly (\$1000 or \$3000 advance deposit required).
Responsibility for Environmental Response	<ul style="list-style-type: none"> Person who possesses, controls or causes hazardous substance discharge must conduct all necessary response actions Voluntary action may be taken by other parties 	<ul style="list-style-type: none"> Any party may conduct an environmental investigation and cleanup of property Voluntary Party is responsible to ensure the investigation and cleanup are approved by the DNR
Scope of Response	<ul style="list-style-type: none"> Requires investigation and cleanup of known or suspected contamination at the site The investigation and cleanup will include any contamination that has migrated beyond property boundaries Response actions must be conducted in accordance with NR 700 rule series 	<ul style="list-style-type: none"> A Phase I and II Environmental Site Assessment is required Requires an environmental investigation of the entire property, including contamination that has migrated beyond the property boundaries Response actions must be conducted in accordance with NR 700 rule series
Future Liability, After DNR Close Out	<ul style="list-style-type: none"> Responsible Party receives "Close Out" letter from DNR, per ch. NR 726 "Close out" letter, and any applicable conditions, are transferred with the property If additional contamination found, case may be reopened and further action required of the current property owner or person who caused discharge (s. NR 726.09) 	<ul style="list-style-type: none"> The voluntary party receives "Partial Certificate of Completion" or "Certificate of Completion" The voluntary party is not responsible for additional environmental work at the property due to past releases, if: <ul style="list-style-type: none"> environmental standards change; cleanup action fails to fully restore the environment the contamination is found to be more extensive than anticipated "Certificate of Completion" applies to future owners as successor or assignee

Whom do I contact if I have questions?

Questions about the Voluntary Party Liability Exemption should be directed to the Land Recycling Team contact in your local DNR regional office. Please see the map to determine which region contains your property. Applications and fees should also be mailed to the following Land Recycling Team contacts:

DNR NORTHERN REGION

John Sager
(715) 623-4190 ext. 3125
Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501

DNR NORTHEAST REGION

Kathy Erdmann
(920) 492-5798
Department of Natural Resources
1125 N Military Ave
PO Box 10448
Green Bay WI 54307-0448

DNR SOUTH CENTRAL REGION

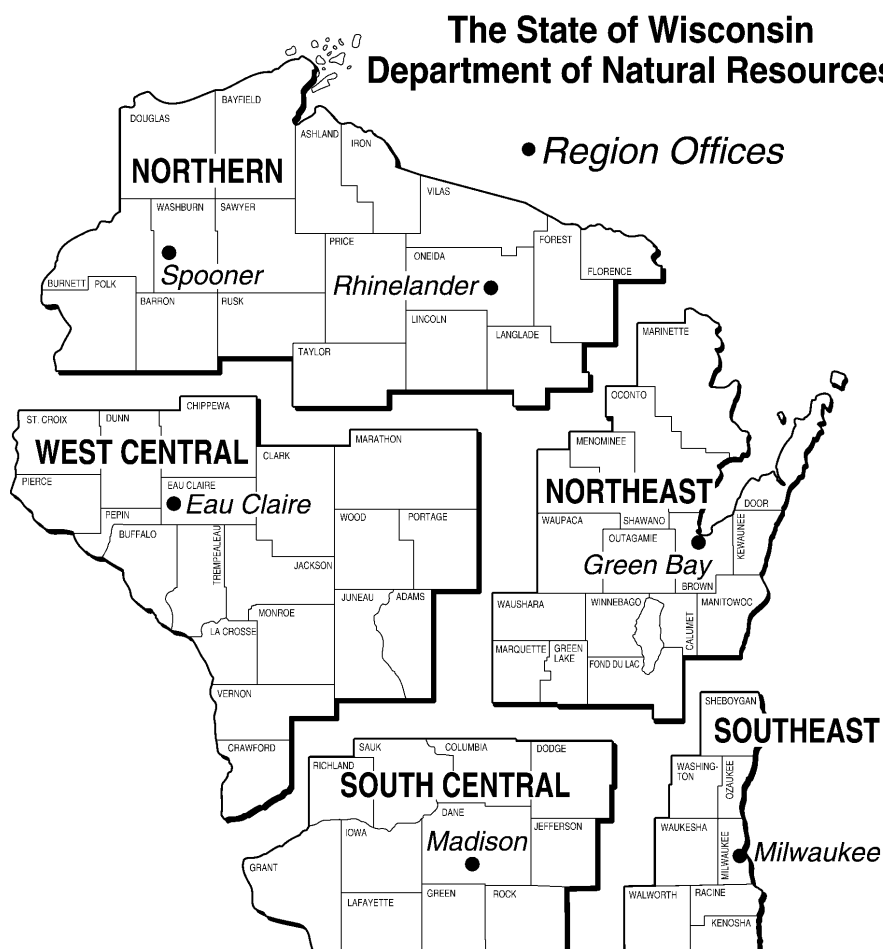
Mike Schmoller
(608) 275-3303
Department of Natural Resources
3911 Fish Hatchery Road
Fitchburg, WI 53711

DNR SOUTHEAST REGION

Margaret Brunette
(414) 263-8557
Department of Natural Resources
2300 North Martin Luther King Drive
Milwaukee, WI 53212

DNR WEST CENTRAL REGION

Loren Brumberg
(715) 839-3770
Department of Natural Resources
1300 Clairemont Avenue
Eau Claire, WI 54702



Additional copies of this and other fact sheets, application forms, regulations, statutes and other relevant publications can be obtained on the Remediation and Redevelopment web site: http://dnr.wi.gov/org/aw/rr/archives/pub_index.html



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Answers To Common Questions About The Voluntary Party Liability Exemption Process

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GENERAL QUESTIONS / ELIGIBILITY

Q1. Can anyone receive the liability exemption?

A1. Yes. In 1999, the law was changed to allow any party, even one who caused the contamination at the property, to participate in the VPLE process. A voluntary party is defined as "a person who submits an application to obtain an exemption" and pays the required fees.

Q2. What is the difference between the "Voluntary Party Liability Exemption process," the "Land Recycling Program," the "Purchaser Liability Exemption," and the "Act 453 Program?"

A2. Basically these terms refer to the same process. Until the 1997-1999 budget, the exemption described in this fact sheet was

known as the Purchaser Liability Exemption because only purchasers of property were eligible. This is no longer an accurate description because the eligibility has been expanded to include other "voluntary parties". People also refer to the process as the "Act 453 Program" or the "Land Recycling Program" because the exemption was initially created as part of the Land Recycling Law (Act 453) in 1994.

Q3. If I buy property for which a cleanup has already occurred, can I still receive the liability exemption? Can I get the liability exemption for a site that has already received a case closure letter?

A3. Yes. However, additional work at the site may need to be conducted in order to meet the requirements to receive the liability exemption, including an environmental investigation of the entire property. If a Phase I and Phase II environmental assessment have not been conducted, they will need to be conducted for the property. Depending on the results of the Phase I and Phase II, further site investigation may need to be done and any additional contamination that may be found must be cleaned up before the liability exemption is granted.

Q4. What if the environmental condition of the property I want to purchase is unknown?

A4. Before you purchase the property, the DNR recommends that you find out as much about the environmental conditions of the property as you can. You can conduct a Phase I Environmental Assessment (EA) of the property to determine if there is potential or known environmental contamination.

Depending on the results of the Phase I EA, you may want to proceed with a Phase II EA. If the Phase I and II Environmental Assessment indicates that an investigation and cleanup is necessary, then the Voluntary Party Liability Exemption may be of benefit to you. Before you purchase the property, you may want to ask your consultant for an estimate of what it would cost to conduct these various environmental steps.

Q5. What if the property does not require an investigation or cleanup?

A5. If there has never been a discharge of a hazardous substance at the property, there would be no environmental liability for the property and the voluntary party liability exemption would not be necessary. A "clean" piece of property is not eligible for the VPLE process. A property with a past release which has already been cleaned up, however, may be eligible for the exemption (see Question 3, page 7).

Q6. How Does the Voluntary Party Liability Exemption process differ from the traditional spill cleanup program?

A6. If someone is cleaning up a site in Wisconsin, they can either conduct the cleanup under the traditional spill cleanup program or the Voluntary Party Liability Exemption process. While the traditional spill cleanup program is typically for responsible parties, persons conducting a cleanup voluntarily who are not responsible under the spill law, can utilize the traditional spill cleanup process. The chart on page 5 describes the difference between the two options

Q7. Can I enter into the Voluntary Party Liability Exemption process if I want to clean up a leaking underground storage tank?

A7. Yes. The Voluntary Party Liability Exemption is available for the cleanup of a property with a discharge of any hazardous substance, including petroleum products from a leaking underground storage tank. However, the voluntary party would also need to comply with

any federal or state requirements related to closing and cleaning up leaking underground storage tanks.

Also, for all VPLE sites, the voluntary party would need to conduct an investigation and cleanup of the entire property, not only the leaking tank. This would include any contamination that may have migrated off the property. The cleanup of some properties with Leaking Underground Storage Tanks is overseen under the authority of the Department of Commerce. However, the DNR is the only agency with the statutory authority to issue a Certificate of Completion to a voluntary party seeking the liability exemption in s. 292.15, Wis. Stats.

If a VPLE site is under the jurisdiction of the Department of Commerce, the two agencies will work together to review the cleanup actions.

Q8. Can a property with a landfill or solid waste enter the VPLE process and receive a Certificate of Completion?

A8. Yes, in some cases properties that contains solid waste can obtain a Certificate of Completion. The statute prohibits any "approved facility" or "municipal waste landfill" from obtaining the Voluntary Party Liability Exemption. The terms "approved facility" and "municipal waste landfill" are defined in solid waste law, s. 289.01, Wis. Stats. Also, in order to be eligible for the Voluntary Party Liability Exemption, there must be a release of a hazardous substance to the environment. If there is only solid waste on the property and no discharge, the property would not be eligible for the VPLE. Parties are advised to contact the DNR before they submit an application in order to discuss whether a property is eligible for the Voluntary Party Liability Exemption.

Q9. Can a property with hazardous waste enter the VPLE process and receive a Certification of Completion?

A9. Yes, properties that contain hazardous waste can be investigated and remediated

through the VPLE process and can receive a Certificate of Completion. However, the exemption is not available for certain hazardous waste treatment, storage or disposal facilities. See s. 292.15(7), Wis. Stats., or contact the DNR for more information about this.

APPLICATION / BEGINNING THE PROCESS

Q10. Can a Certificate of Completion be issued to more than one party for a single property?

A10. Yes. If two or more voluntary parties want to receive a Certificate of Completion for the same property, each party must submit a separate application to the DNR. Parties should work with the DNR on a case-by-case basis to determine the appropriate fees and review procedures.

Q11. What is considered a “property”?

A11. A property is a single parcel of land, with the entire legal description found on one deed and which has been conveyed as an undivided parcel in the past.

Q12. If I have multiple contiguous properties, how many applications, fees and advance deposits do I need to send to the DNR?

A12. If you have more than one “property,” you should submit a separate application form and a non-refundable application fee for each “property” (see Question 11, page 9). If the site assessments and cleanups are being conducted together at the different “properties,” a single advance deposit based on the aggregate size of the combined properties may be submitted.

Q13. At what point in the environmental response process should I enter into the VPLE process?

A13. It depends on the situation. Generally, parties are encouraged to enter into the VPLE process as early as possible, before any investigation has been conducted, so that they

can get DNR review at the beginning of the process. However, parties can enter into the VPLE process after some (or all) environmental work has been completed, though the party is still required to follow all the steps under NR 700. The DNR may require additional assessment, investigation, or cleanup work at the property, where actions were taken prior to being in the VPLE process.

ASSESSMENT AND INVESTIGATION

Q14. What is a Phase I Environmental Assessment (EA)?

A14. A Phase I Environmental Assessment is an assessment of a site to identify all recognized environmental conditions at a property. Recognized environmental conditions are the presence or likely presence of any hazardous substance, including petroleum products, on a property under conditions that indicate an existing release, past release or a material threat of a release of any hazardous substances into structures on the property or into the ground, groundwater, or surface water of the property. This assessment may include, but is not limited to, reviewing records, interviewing persons and conducting physical inspections of the site.

Q15. What is a Phase II Environmental Assessment (EA)?

A15. A Phase II Environmental Assessment is an assessment conducted to physically confirm the presence or absence of environmental contamination in areas identified as recognized environmental conditions in the Phase I Assessment. The Phase II EA does not determine the nature and extent of contamination. This assessment may include, but is not limited to, field sampling of media, laboratory analysis of samples and visual confirmation of environmental contamination of the site.

Q16. What type of environmental investigation of the property is necessary?

A16. An environmental investigation includes three important steps: the Phase I Environmental Assessment, the Phase II Environmental Assessment, and a ch. NR 716 site investigation of the entire property. The scope of the investigation is not limited to the property boundary if there is reason to believe that hazardous substances migrated off the property. The investigation must be extensive due to the potential of more than one release being present at a property. All three steps must be completed and reviewed by DNR staff in order to proceed through the program.

Q17. Is a Phase II Environmental Assessment the same as a ch. NR 716 site investigation?

A17. No. A Phase II Environmental Site Assessment only verifies that one or more discharges have occurred on the site, while the purpose of a ch. NR 716 site investigation is to define the nature, degree and extent of all environmental contamination and to define the source(s) of contamination on the site.

Q18. Who may conduct the investigation?

A18. The voluntary party usually hires and pays an environmental consultant to conduct the investigation. In some cases, the investigation may be conducted by a party other than the voluntary party (for example, a person selling the property to the VPLE applicant). However, the DNR may require the voluntary party to conduct additional investigation work if the initial investigation is inadequate. A site investigation must be conducted in accordance with requirements contained in ch. NR 716.

CLEANUP REQUIREMENTS

Q19. What environmental standards must I follow to receive DNR review and approval?

A19. The cleanup standards for a VPLE site are the same as for any other type of contaminated site. All applicable environmental laws and regulations, federal and state, must be followed. The primary cleanup standards in Wisconsin are

described in the ch. NR 700 rule series. Groundwater standards are found in ch. NR 140. These regulations apply to all types of contamination regardless of the source of contamination or type of site. The only significant difference is the scope of the investigation. A VPLE site investigation covers an investigation of the entire property, not just the "known" discharge.

Q20. Who may conduct the cleanup?

A20. Any party may conduct the cleanup. Usually the voluntary party hires and pays an environmental consultant to conduct the cleanup activities. The cleanup must be conducted in accordance with the requirements contained in the NR 700 administrative rule series.

Q21. Can I use an engineering control, such as a cap to prevent exposure to contamination, as part of the cleanup I conduct at a VPLE site?

A21. Yes. If an engineering control is approved by the DNR as part of a remedial action plan, it can be used as part of a VPLE cleanup. However, if a deed restriction or deed notice is required to maintain that engineering control, the voluntary party must first have the deed restriction approved by the DNR and then record the restriction or notice before a Certificate of Completion can be issued. The language contained in the deed instrument will be incorporated into the Certificate of Completion and the exemption from liability will be contingent upon continued adherence to the requirements of the deed instrument (e.g. the voluntary party and any successors or assigns must adhere to a requirement to prevent exposure to any contaminated soils left on-site).

Q22. Do I need to clean up the solid waste left on my property before I can obtain a Certificate of Completion?

A22. Before the DNR will issue a Certificate of Completion, the voluntary party will be required to take appropriate action to address solid waste on the property. The DNR project manager will

work with the environmental consultant to determine what solid waste requirements must be met.

CERTIFICATE OF COMPLETION

Q23. When do I get the liability exemption (aka, Certificate of Completion)?

A23. Certificates of Completion are issued when the DNR determines that all requirements in s. 292.15, Wis. Stats., and the NR 700 administrative rule series, have been met. The primary requirement is that the DNR must determine that the property, including any releases which have migrated off-site, has been satisfactorily restored to the extent practicable and the harmful effects from the discharge have been minimized. Also, all applicable fees must have been paid.

Q24. After I enter into the Voluntary Party Liability Exemption process, how long does it take before I am issued a Certificate of Completion?

A24. The amount of time it takes to bring a property through the Voluntary Party Liability Exemption process can vary greatly depending on the site specific circumstances. Larger, more complicated sites can take longer to investigate and different remediation techniques can take different lengths of time. The length of time it has taken parties to receive a Certificate of Completion after they submitted their application has ranged from five months to more than two years.

Q25. What benefits do I receive if I get the liability exemption?

A25. There are three protections granted after the DNR issues the liability exemption: (1) no further response actions are needed if environmental standards change; (2) there will be no liability if an approved cleanup remedy is later discovered to have failed to fully restore the environment; and (3) there will be no liability for contamination that is cleaned up but later found to be more extensive than originally

thought. These protections only apply to releases that occurred on the property prior to the site investigation being approved by the DNR under s. 292.15, Wis. Stats. Any discharges that occurred after the site investigation is approved would not be covered by the exemption unless the voluntary party updated the site investigation by identifying the post-site investigation discharge and remediated those discharges to the satisfaction of the DNR as part of the VPLE cleanup.

Q26. Am I exempt from all state and federal environmental liability at the property?

A26. No. This provision only exempts parties from portions of Wisconsin's Hazardous Substance Discharge Law (the "Spill" law, s. 292.11, Wis. Stats.), and portions of the solid waste and hazardous waste laws.

While the Voluntary Party Liability Exemption does not exempt parties from any federal laws or regulations, the DNR and the Environmental Protection Agency (EPA) entered into a brownfields memorandum of agreement (MOA) in 1995 to clarify the role of the federal Superfund program in Wisconsin's voluntary cleanups. This MOA states that the federal Superfund program will not take action at any property where the responsible or voluntary party is undertaking or has completed a cleanup in accordance with Wisconsin laws. The federal Superfund program generally has no interest in properties where parties receive the Voluntary Party Liability Exemption.

Q27. If I receive a Certificate of Completion and it turns out that some contamination was missed during my investigation and cleanup, who is responsible for conducting any further investigation and cleanup?

A27. In this case, the DNR would look for parties who caused the contamination (other than the voluntary party) and request that they take responsibility for the additional contamination. If there are no parties who caused the contamination, if those parties are unable to pay for any additional cleanup, or if

they have a Certificate of Completion or other exemption, the DNR would evaluate the public health and environmental impacts at the site to determine if the DNR should use the state's Environmental Fund to remediate the site under the State Funded Response Program.

Q28. Can I sell my property before I receive my Certificate of Completion?

A28. Yes. It does not matter to the DNR who owns the property as long as the requirements of the VPLE are met. In some cases, parties are able to work out a deal where a purchaser agrees to buy a property that is going through the VPLE process. In these cases, buyers and sellers usually enter into agreements which define who will assume the responsibility for completing the cleanup. Depending on the site circumstances and the type of remediation, purchasers may be able to construct a building or use part of the property for some productive use while the cleanup is being finished.

Q29. Can I receive a Certificate of Completion if I meet the requirements of flexible closure (s. 726.05(2)(b)) at a site where I am using natural attenuation as a remedy?

A29. Yes. Voluntary parties can receive a Certificate of Completion when natural attenuation is used if certain requirements have been met. When the 1999-2001 state budget (1999 Wisconsin Act 9) was passed, the VPLE statute was changed to allow parties to obtain a Certificate of Completion at properties before groundwater standards have been met if they can demonstrate that natural attenuation will bring the groundwater into compliance with state enforcement standards. To obtain a Certificate of Completion for a property using natural attenuation, ch. NR 754 requires that the voluntary party pay an environmental insurance fee to the DNR. For more information on the insurance requirements for natural attenuation at VPLE properties and a schedule of insurance fees please see "Insurance for Voluntary Party Liability Exemption Sites Using Natural Attenuation: Information and Fee Schedule"

(Publication # RR-661) or contact the DNR project manager or regional land recycling team contact (see map on page 6).

Q30. Can I receive a Certificate of Completion if I have contamination on my property from an off-site source?

A30. Yes. Voluntary parties can receive a full Certificate of Completion if there is a hazardous substance on the property that originates from an off-site source if the voluntary party receives a written determination from the DNR that they have met all the requirements in s. 292.13, Wis. Stats., to qualify for the off-site exemption and the other VPLE requirements have been met.

WITHDRAWAL FROM THE VPLE PROCESS

Q31. What happens if I decide I don't want to proceed under the Voluntary Party Liability Exemption process?

A31. You can withdraw from the VPLE process any time by providing written notification to the DNR. However, withdrawing from the VPLE process does not exempt you from any legal requirements in conducting an environmental cleanup. If you caused the problem or own the site, and are not covered by another liability exemption, the Hazardous Substance Discharge Law requires that you address known problems on the property.

Q32. If I withdraw from the VPLE process, what money will be returned to me?

A32. Upon written notification of your withdrawal from the VPLE process, any remaining money from the advance deposit will be refunded. The application fee is nonrefundable. Should you decide to reenter the program, a new application and fee should be submitted.

PARTIAL CERTIFICATE OF COMPLETION

Q33. What is a Partial Certificate of Completion?

A33. The VPLE law (s. 292.15(2)(am), Wis. Stats.) allows the DNR to approve a partial cleanup and issue a partial Certificate of Completion. There are two types of partial cleanups that voluntary parties may choose to do:

1. address the contamination only on a specific geographic portion of the property; or
2. clean up specific hazardous substances on the property.

Parties who want a partial Certificate of Completion must meet all the requirements for a full Certificate of Completion. Parties can be considered for a partial Certificate of Completion only after the DNR approves a complete site investigation of the entire property, including contamination that may have migrated off-site.

Even if a party wants to conduct a remedial action on one area of the property, the law requires that the party conduct an environmental investigation of the entire property. Also, if the voluntary party only wants to clean up one type of contamination, the law requires that all hazardous substance discharges be completely investigated.

In addition, in order to receive a partial Certificate of Completion, parties must also ensure that:

- public health, safety, or the environment will not be endangered by any hazardous substances remaining on or originating from the property after the partial cleanup;
- the development or use of the property will not aggravate or contribute to the discharge of a hazardous substance on or originating from the property;
- the development or use of the property will not unduly interfere with, or increase the cost of, cleaning up the remaining contamination on the property; and

- the owner of the property will cooperate with the DNR to address the contamination remaining on the property; if necessary, owners must agree to allow the DNR, or representatives of the DNR, access to the property for environmental activities on the property, such as placement of borings, equipment or structures on the property.

A partial Certificate of Completion will state that not all of the property has been satisfactorily restored or that not all the harmful effects from a discharge of a hazardous substance have been minimized. If you are interested in conducting a partial cleanup, you should indicate this on your application.